reconsider his conclusion about whether the second assumption, drawn from applicants specification, satisfies the written description requirements to support claims 2-4.

The second factual assumption posed by the Examiner was that "the conversation is being recorded when the alarm was set off because the level of nervousness goes above a pre-determined level. In this case the recording will simply continue..." The Examiner then concludes that "...this means that the recorded portion is not used for the purpose of determination the level of nervousness in order for the alarm to be set off as claimed." But this is wrong.

In the posed hypothetical fact situation that the Examiner constructs from the applicant's specification, the recorded portion of the conversation has been used to set off the alarm. The alarm was set off in "real-time" and without the need for any play-back of the recorded portion. But, a play-back of the recorded portion is not required by any of the claims in question. Claims 2-4 each require the step of "determining whether said first speech portion satisfies a monitoring condition." No portion of the claim requires the step of determining from the pre-recording whether said first speech portion satisfies a monitoring condition. Applicant agrees that the first step of claims 2-4 requires that some portion of a telephonic speech be recorded in advance of the second step. Applicant also agrees that the second step requires some determination be made from that portion of the telephonic speech, but it can be in "real-time".

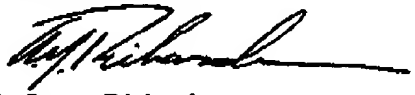
This "real-time" analysis of the speech, as opposed to a playback mode, is precisely the fact situation that the Examiner has constructed from the applicant's specification and so it must be supported under 35 U.S.C. § 112. This "real-time" analysis of the speech is also disclosed in U.S. Patent 6,542,602, from which claims 2-4 have been copied. The Examiner's attention is directed to the paragraph bridging columns 6 and 7 of the '602 patent which states: "Monitoring system 16 preferably stores captured audio and screen data to one or more storage media 26 and provides captured audio and screen data to one or more

supervisor workstations 18 either in *real-time* or later in a playback mode where audio, screen data, and other data may be monitored separately or simultaneously." There is nothing in claims 2-4 or the '602 patent that precludes the alarm condition occurring in real-time. While according to claims 2-4 there must be a first portion of speech that is recorded, and there must be some triggering characteristic observed in this first portion of speech, the claims do not require that this triggering characteristic be extracted from the recording – it merely needs to be extracted from the speech it self either in "real-time" or in "play-back".

For at least the foregoing reasons, Claims 2-4 are supported by the applicant's specification and meet the written description requirement pursuant to 35 U.S.C. § 112, first paragraph. Since the Claims 2-4 are supported and meet the written description requirement, US Patent No. 6,542,602 to Elzar is not prior art, and the Examiner's 35 U.S.C § 102(e) rejection is moot. Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 112, first paragraph rejection, and the 35 U.S.C. § 102(e) rejection of claims 2-4.

In addition, Applicant respectfully renews his request that the Examiner declare an interference between this application and U.S. Patent No. 6,542,602, which issued to Elazar on April 1, 2003. Should the Examiner deem a telephone conference to be beneficial in expediting declaration of the interference, the Examiner is invited to call the undersigned attorney at the telephone number listed below. No fees are believed to be due at this time, however, should any fees be deemed required, please charge such fees therefor to Deposit Account No. 23-1925.

Respectfully submitted,



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